

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3123 of 1986

HON'BLE MR.JUSTICE K.S.JHAVERI

=====

1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

KHEMCHANDBHAI S BHARVAD

Versus

DIST INSPECTER OF LAND RECORDS

Appearance:

MR ND NANAVATI for Petitioner No. 1-16

M/S MG DOSHIT & CO for Respondent No. 1-3

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 29/06/2004

ORAL JUDGEMENT

1. Heard the learned counsel for the respective parties.

2. The petitioners are class IV Employees working as Peons in the office of the District Inspector of Land

Records, Ahmedabad. The petitioners have prayed for a direction to the respondents not to terminate the services of the petitioners and to make them permanent on their respective posts.

3. In the petition the petitioners have stated that they have raised an identical question which has been raised in Special Civil Application No.3568/85 and other cognate matters and this Court had admitted those petitions and the services of those petitioners were protected. Relying on the said averment, this Court issued Rule in the present petition and status quo was also granted. The said interim relief was subsequently confirmed by order dated 25th August 1986. However, no endorsement was made in the original proceedings to hear the present petition along with Special Civil Application No.3568/1985. Therefore, when the said Special Civil Application No.3568/1985 was taken up for hearing the present petition was not listed for hearing.

5. This Court heard the Special Civil Application No.3568/1985 and vide judgement and order dated 16th January 1999, disposed of the petition. However, in paragraph 4 of the judgement this Court observed as under:

"I have gone through the relevant papers and considered carefully the facts and circumstances of the case. It is a case in which the petitioner and such other persons are employed for a period of 8 months and their services are discontinued for a period of four months (monsoon season). The Government has already absorbed the persons who are regularly working in the office for the whole year. But the petitioner and such other persons are working for a particular period and when their services are not required their services are discontinued. For the purpose of increment and other benefits they are being treated in service and they cannot be treated as regular Class IV employee unless they are required for continuous period of the whole year as servants and the petitioners are required for a particular period and hence their services cannot be regularised as regular Class-IV employee."

Ultimately the aforesaid petition came to be dismissed.

6. No doubt, in this matter the respondents have not filed their reply. However, since even according to the

petitioners the questions involved in both the petitions are identical, and the issue has already been decided by this Court in the above petition, the present petition cannot be entertained.

7. In the result, the petition is rejected. Rule is discharged with no order as to costs. Interim relief stands vacated.

8. It is required to be noted that in view of the interim order granted by this Court since the year 1986, the petitioners continued in service. Under the circumstances, it will be open for the petitioners to make a representation to the respondents to regularise their services if posts are available. If such representation is made, the respondents shall decide the same in accordance with law.

[K.S. JHAVERI, J.]

ar